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MT LEGISLATIVE HISTORY

Chapter 702 1989

Bill H _____ (S) 129 Original bill & hist. ___C

H. Committee on Human Services & Aging

Hearing Date(s) Mar 03 ___C
Mar 17 ___C
_____ ___C
_____ ___C

Date Out _____ ___C

S. Committee on Labor & Employment

Hearing Date(s) Jan 24 ___C
Feb 04 ___C
Feb 10 ___C
_____ ___C

_____ ___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

STATE SHEET

LABOR COMMITTEE
51st LEGISLATIVE SESSION

BILL NUMBER	ENTERED COM. DATE	DATE CON-SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON-CURRED IN DATE	BE NOT CONCURR-IN DATE	BE CON-CURRED IN AMENDED DATE	BE NOT CONCUR IN AMENDED DATE
SB 93	1-11-89	1-17, 1-24, 1-26	1-26 TABLED								
SB99	1-11-89	1-17, 1-26	1-26	1-26							
SB100	1-11-89	1-17, 2-14	(2-14 Recon) 1-26	1-26		2-14 Reconsidered					
SB101	1-11-89	1-17, 2-4	2-4			2-4					
SB67	1-12-89	1-19, 1-26	1-26			1-26					
SB70	1-12-89	1-19, 1-31 2-2	2-2			2-2					
SB128	1-14-89	1-24, 2-4 2-7, 2-10 2-14	2-14 2-10		2-10	2-14					
SB129	1-14-89	1-24, 2-4 2-4, 2-10	2-4			2-4					
SB130	1-14-89	1-24, 2-4 2-10	2-10			2-10					
SB156	1-17-89	1-17, 1-26	1-26			1-26					
SB159	1-17-89	1-17 1-26	1-26	1-26							
SB160	1-17-89	1-17, 1-26	1-26	1-26							
SB163	1-17-89	1-31, 2-4 2-14	(2-14) 2-4		2-4	2-14					
SB218	1-22-89										
SB234	1-25-89	1-31, 2-4 2-7			2-7						
SB235	1-25-89	2-9, 2-14	2-14			2-14					
SB276	1-27-89	2-2, 2-4	2-4	2-4							
SB278	1-28-89	2-14	2-14			2-14					

Presentation and Opening Statement by Sponsor:

Senator Manning, Senator District 18, Great Falls, sponsor of SB 129, stated the bill was requested by the Joint Interim Subcommittee on Welfare. Senate Bill 129 is an important bill intended to restore the financial responsibility for support of children to parents. Senate Bill 129 will reduce the need payments under the Aid to Families with Dependent Children Program.

Senate Bill 129 is based on findings of the Interim Subcommittee . Current state laws are inadequate to assure all women with children will receive a proper award of child support as part of a court order providing for divorce, separation, or dissolution of marriage. Montana has enacted laws in recent years to strengthen child support enforcement. However, these laws have proven to be inadequate because they do not require the courts to award child support, or to presume the obligation of support, in every case in which the father has the ability to pay child support. Although the Montana Supreme Court recently adopted guidelines for determining child support awards, the guidelines are expressly not binding on judges or any other powerful official in Montana. It is difficult to gauge the extent to which the current system is failing to provide appropriate child support to women and their children. If federal statistics hold true, there is reason for those in the state legislature to be concerned. According to a recent U.S. government survey, about one-half of all women, who should have child support, actually obtain a court order or agreement providing them child support. Of those who have a court order or agreement for support, one-half receive only partial payment or no payment at all. Presumable, the taxpayers, by way of AFDC, are shouldering the financial responsibility for those women and children who are receiving inadequate child support.

Former Secretary of Health and Human Services, Margaret Heckler, has described the problem as "a widespread and shameful situation in this country--the nonsupport of children by their own parents."

Senate Bill 120 would: 1) establish a presumptive child support obligation that would apply in all paternity actions and proceedings for divorce, separation, maintenance, and support; 2) require payment of an assured child support amount based on uniform guidelines for the determination of child support; and 3) require immediate income withholding of child support payments in order to avoid delinquencies in the payment of required child support.

Senate Bill 120 would require the courts to determine child support by following the standards and guide lines mandated in the bill. Otherwise, the court would have to state in writing its reasons for not doing so. The reasons for not applying these standards and guide lines is limited to a finding by the court that application of these standards and guidelines would be unjust to the child or a party, or is inappropriate in the particular case. Senate Bill 129 is consistent with current mandates contained in the new federal welfare reform act. The federal welfare reform act requires stricter child support enforcement and guideline to establish a "rebuttable presumption" of the obligation of parents to provide child support.

List of Testifying Proponents and What Group They Represent:

Brenda Nordlund, representing the Montana Women's Lobby Group.

Jim Smith, representing the Human Resource Development Council.

Mignon Waterman, representing the Montana Association of Churches.

Christine Deveny, representing the League of Women Voters of Montana.

Judith Carlsen, representing the Montana Social Workers.

Testimony:

Brenda Nordlund, Montana Women's Lobby Group, stated there is not a lot of room to argue what a child's needs should be met. The automatic income withholding provision recognizes society's obligation to pay child support, which is the noncustodial parents obligation. Many time women want their court order carried out, but the women cannot pay attorney fees. Women are told they cannot depend on the child support payment. Society expectations must be changed. The is tremendous difficulty at the district court level in dealing with transient noncustodial parents.

Jim Smith, the Human Resource Development Council stated support of SB 129. There are two issues: values and money. One message must be gotten across. If you parent a child, you will be responsible for that child's financial support until the child reaches the age of 18. The state of Wisconsin passed a similar bill in 1986. Since, there has been a 40% reduction of the AFDC program, due to child support collections. A lot of money is at stake.
Mignon Waterman, Montana Association of Churches submitted

written testimony in support of SB 129. (Exhibit 6)

Christine Deveny, League of Women Voters of Montana, offered written testimony in support of SB 129. (Exhibit 7)

Judith Carlsen, Montana Social Workers, stated support of SB 129. Ms Carlsen stated SB 129 is a WIN-WIN situation. Senate Bill 129 will bring money into the state budget to replace the AFDC money, and it will increase the stability of the family.

List of Testifying Opponents and What Group They Represent:

Charles Brooks, representing the Montana Retail Association.

John McRae, representing the Child Support Enforcement Agency.

Jeff Graham, representing himself.

Testimony:

Charles Brooks, Montana Retail Association, offered written opposition against SB 129. (Exhibit 8)

John McRae, attorney, Department of Revenue, recognized Dennis Shober, Bureau Chief for the Child Support Division. Mr. McRae stated the Department of Revenue is neutral, but offered expertise and instruction concerning the program.

Jeff Graham, representing himself, asked the committee to consider the father, who is granted reasonable visitation rights. Yet, the mother of the child does not allow the child to contact the father. Mr. Graham stated he would like to have an amendment to address the visitation issue.

Questions From Committee Members:

Senator Blaylock asked Brenda Nordlund what are the "silver bullets" that are going to make the noncustodial parent pay. Senator Blaylock stated Ms Nordlund testified she accompanied her clients to district court in obtaining monthly child care payments, but the noncustodial parent quits their job or leaves the area. Something needs to be done in this situation. Nordlund stated the major silver bullet is the automatic income withholding. Every person, with the exception of the independent, self employed business person, will come under this ruling. Senate Bill 129 allows the custodial parent the option, the obligation, to file an application with child support enforcement agency, so withholding order enforcement can collect on the custodial parent's behalf. The agency's job is to find the

non-custodial parent. The agency has access to many types of confidential information used to find the non-custodial parent.

Senator Blaylock stated there are fathers who make the child support payments, but are not allowed to have access to the children, even though the court gave visitations privileges. Even though this bill may be enacted, perhaps, the fathers are not gaining a whole lot of ground. Ms Nordlund stated the overriding concern of SB 129 is: What are the needs of the children. It is documented that children are living in poverty, due to problems of child support payments. This link is very clear. Mr Graham, according to Ms Nordlund, has the ability to enforce the visitation provision of the divorce decree. The child's needs do not stop.

Senator Pipinich asked Ms Nordlund is she is looking out for the child's needs or the mother's needs. Ms Nordlund apologized for the gender use of the mother's need. There are exceptions. Clearly, there are fathers who are custodial parents.

Senator Lynch stated that people can very easily lie to the employer in order to get out of paying the automatic income withholding. If the employee has blatantly lied, certainly the obligator is going to be in contempt of the court order.

Senator Keating asked John McRae if SB 129 augments the child enforcement bureau's present procedures, or change the direction of what is being currently accomplished. Yes, currently the department does income withholding procedures. The triggering device now is e monthly payments must be delinquent. Who has the authority to impose the withholding requirement upon the employer. Is this done by court order or does the bureau have the authority to initiate the payment. McRae stated there already an existing court or administrative order requiring the individual to pay. Once the order is in place, the department will serve a notice on the individual, stating a delinquency has occurred, and the department intends to withhold income. The individual is given an opportunity to have a hearing to contest the delinquency. If the delinquency occurred, the department issues an order directly to the employer.

Senator Keating asked how many cases each year did the department document. Dennis Shober replied there are in excess of 18,000 cases. The department garnishes the wages of approximately 75% of the cases through the courts or other administrative procedures. Senator Keating asked if SB 129 will make the practice easier to garnish wages. Shober stated by eliminating the early day delinquency requirement, the department thinks the order could be given

to the employer must faster than the present policy.

Senator Keating stated he could understand the Child Support Bureau's concern to make it easier to collect funds, but Senator Keating stated he would have to weigh his decision in favor or the merchants. If the merchants fail in some little way to make an inquiry or initiate the question and set up the adversary situation, the merchant is liable for the payment of the delinquent father. The language is too harsh. Most merchants are subject to and probably involved in garnishing cases.

Closing by Sponsor:

Senator Manning stated he is open to amendments to make the bill more workable. Something should be done to people intentionally running away from their obligations.

HEARING ON SENATE BILL 130

Presentation and Opening Statement by Sponsor:

Senator Manning, Senate District 18, principal sponsor of Senate Bill 130, stated the bill was requested by the Joint Interim Subcommittee on Welfare, to require the Department of Social and Rehabilitation Services to seek an agreement with the U.S. Secretary of Health and Human Services for the purpose of establishing a demonstration program that would allow recipients of the AFDC-Unemployed Parent Program to work 100 hours or more in a month and still retain eligibility for public assistance, including Medicaid.

Under current federal regulations, a recipient of the AFDC-Unemployed Parent Program is prohibited from working 100 hours or more in any given month. This rule, which is known as the 100-hour rule, apparently exists to provide a definition of an "unemployed parent" for purposes of administering the AFDC Unemployed Parent Program. The problem is the rule poses an obvious disincentive for AFDC unemployed parent recipients to work. Senate Bill 130 is intended to eliminate the work disincentive inherent in the current 100-hour rule by either modifying or eliminating the 100-hour rule so that unemployed parent recipients can work 100 hours or more and still retain eligibility for AFDC.

Under the new federal welfare reform act, eight states will be permitted to establish demonstration programs to permit AFDC unemployed parent recipients to work 100 hours or more each month. And one state, perhaps, Montana, will be allowed to establish a program that will completely eliminate the 100-hour work restriction.

ROLL CALL

LABOR COMMITTEE

51st LEGISLATIVE SESSION

DATE: January 24, 1989

	PRESENT	ABSENT	EXCUSED
SENATOR TOM KEATING	X		
SENATOR SAM HOFMAN	X		
SENATOR J.D. LYNCH	X		
SENATOR GERRY DEVLIN	X		
SENATOR BOB PIPINICH	X		
SENATOR DENNIS NATHE	X		
SENATOR RICHARD MANNING	X		
SENATOR CHET BLAYLOCK	X		
SENATOR GARY AKLESTAD	X		

Montana Association of Churches

MONTANA RELIGIOUS LEGISLATIVE COALITION • P.O. Box 745 • Helena, MT 59624

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 6 page 1 of 1
DATE 1-24-89
BILL NO. SB 129

ORKING TOGETHER:

...ican Baptist Churches
of the Northwest

Christian Churches
of Montana
(Disciples of Christ)

Episcopal Church
Diocese of Montana

Evangelical Lutheran
Church in America
Montana Synod

...an Church (U. S. A.)
...ader Presbytery

...erican Church (U. S. A.)
...llowstone Presbytery

...an Catholic Diocese
...Great Falls - Billings

...an Catholic Diocese
of Helena

United Church
of Christ
MT-N. Wyo. Conf.

...ited Methodist Church
...llowstone Conference

January 24, 1989

CHAIRMAN AKLESTAD AND MEMBERS OF THE LABOR AND EMPLOYMENT COMMITTEE:

I am Mignon Waterman of Helena and I represent the Montana Association of Churches.

We support the concept embodied in SB129 that parents, mother and father alike, should assume financial responsibility for their children. It is only through strict child support decrees and enforcement that adequate child support can be ensured.

Once again, we believe recommendations like this will help reduce public assistance costs in Montana while not adversely hurting Montana's low income individuals.

We support the concept of SB129.

EXHIBIT 1 page 1 of 1
DATE 1-24-89
BILL NO. SB 129

Senate Bill 129
Senate Labor and
Employment Committee
January 24, 1989
LWVM Contact: Chris Deveny
442-2617

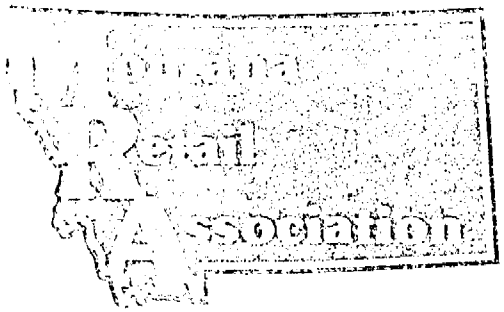
Mr. Chairman, members of the committee, my name is Christine Deveny, here today representing the League of Women Voters of Montana, and here to support Senate Bill 129.

In keeping with its historic involvement with the issue of child welfare, the National League of Women Voters recently completed an extensive study of the unmet needs of our nation. The study draws attention to the fact that only one-third of all single mothers receive the full amount of their court-awarded child support. In many cases that child support payment could be the major financial resource that keeps households headed by single parents from needing AFDC payments to meet basic living needs. Those households with limited financial resources are the ones who most need dependable, regular child support payments to enable them to be self-sufficient without relying on AFDC payments.

The provision of Senate Bill 129 requiring automatic withholding of child support payments is a positive step toward ensuring that non-custodial parents meet their financial responsibilities toward the support of their dependant children. Assurances that adequate child support payments will be made on a regular schedule should reduce the number of households that need AFDC assistance.

The League strongly supports the changes in Section 1 subsection 2 that call for the courts to consider the child's medical needs and day care costs when setting child support payment amounts. The cost of quality child care and medical expenses can be a significant porportion of the overall amount needed to provide for a child. These costs must be considered when setting child support payments.

The League of Women Voters recommends passage of Senate Bill 129. Thank you.



Executive Office
318 N. Last Chance Gulch
P.O. Box 440
Helena, MT 59624
Phone (406) 442-3388

EXHIBIT 8 page 1-61
DATE 1-24-89
BILL NO. SB 129

TESTIMONY
January 24, 1989

SB 129

Mr. Chairman and Members of the Committee,

For the record, I am Charles Brooks, representing the Montana Retail Association. I am here today asking for SB-129 to be amended.

The Montana Retail Association represents approximately 1,000 retail stores throughout Montana.

The retail business enterprises of Montana continue to demonstrate their concern for the welfare of our children by supporting various projects and agencies dedicated to helping children with time, cash and merchandise.

We feel strongly that those who cannot be cared for should receive the necessary care of food, housing, clothing and education and commend those agencies dedicated to this effort. Also, we feel just as strongly that those who bring children into this world should, if capable, provide for their support without exception.

We want you to know that we support the Bill with one change:

Section 5 page 13, line 23: "If a payor fails to make this inquiry the payor is liable to the department for any amount up to the accumulated amount payor should have witheld and delivered if it is not paid by the obligor." We request this section be removed from the Bill.

We do not believe that we as employers should be the enforcer of the court decree; that should be the role of the court. We feel that this puts a very unfair economic burden on the employer should,under the pressure of day to day activities,he fails to ask the question of the person being hired.

It's our hope you will see fit to amend section 5 as stated above.

Thank you for the opportunity to appear before you today.

LABOR COMMITTEE

WITNESS STATEMENT

51st LEGISLATIVE SESSION

DATE: 1-24-89

****

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY !

****

NAME: James E. Smith Date: 1-24-89

ADDRESS: 510 State Helena

PHONE: 443-0606

REPRESENTING WHOM: HRDC Assoc.

APPEARING ON WHICH PROPOSAL: SB 128, 129, 130

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: Assoc. supports entire package introduced by Interim Welfare Committee, including SB 128, 129, 130.

Previous testimony supported SB 93, 99, 100, 101, SB ~~243~~ 134, SB 67, 70

LABOR COMMITTEE

VISITORS' REGISTER

51st LEGISLATIVE SESSION

DATE: 1-24-89

LEAVE PREPARED STATEMENTS WITH SECRETARY! PLEASE!!!

PRINT: NAME	REPRESENTING	Check One: Support	Check One: Oppos
Charles R. Brooks	Montana Retail Association		
Christine Deveny	League of Women Voters of MT		
Dennis Shaffer	Child Support Enforcement		
Jody McRae	" "		
Mike Kakuagan	Office of the Legislative Auditor		
John Ortwein	MT Catholic Conf	128 130	
Wilbur Cooper Johnson	Concerned Citizens Coalition	128 130 129	
Peggy Luttrell			
Virginia Jellison	Montana Taxpayers Association		
Judith H Carlson	NASW	SB 128 129, 130	
Laurie C. Jamison	DOLI		
Brenda Nordlund	Mt Women's Lobby	129	
Marbelle Kreis	C P C		
Regina Waterman	Mt. Assn of Churches	128 129 130	

Recommendation and Vote

Senator Devlin moved the bill: AS AMENDED, BE CONCURRED IN. The motion passed unanimously.

DISPOSITION OF SB-128

Discussion:

Senator Nathe stated there is a question regarding SB 128. The legislature appropriates money to OPI for adult basic education. Senate Bill 128 has approximately $400,000 adult basic eduction funding. Nancy Keenan and staff want to discuss the GED issue. Everything must go back to OPI, and they do not see this kind of money. Senator Nathe asked the committee to delay the bill until Monday. Remedial and job skill training is the point of interest.

Senator Manning stated most of the work programs that constitute job training, school, etc., work in agreement with the local boards and education people. They do not try to administer GED. Senator Nathe stated, according to OPI's adult education administrator, $1.2 million is appropriated for adult education under JEPCA. The $400,000 amount is in addition. If it is remedial education, adult basic education is in OPI

DISPOSITION OF SENATE BILL 129

Discussion:

Senator Pipinich asked Tom Gomez to discuss two amendments. The first is on page 13, line 23, following the word "hiring." and continues to page 14, line 1. Strike the sentence: "If a payer fails to make the inquiry, the payer is liable to the department for any amount up to the accumulative amount that should have been withheld and delivered, if it is not paid by the obligator." To eliminate the sentence is to eliminate the liability of the employer, upon hiring an individual, for failing to ask whether or not a person has a child support obligation, required under this law. By failing to make the inquiry, the employer becomes liable for any child support amount not collected through the employer.

Amendments and Votes:

Senator Pipinich moved to accept the amendment. The motion passed.

Discussion:

The second amendment amends current law to make it unlawful for an employer to discharge, discipline or refuse to hire a person... It is illegal for a employer to discharge the employee if he finds out the individual has a child support obligation.

Senator Aklestad asked if the individual is let go, could an employee use this argument against the employer. The employee could say they were fired because they owe child support. Senator Pipinich said it could be used the other way. The employer, upon finding out the individual was behind on child support payments, could let the employee go because the employer didn't like the way the employee combed his hair. There are laws to protect the employee under these circumstances.

Senator Keating stated the bill reads: (on page 13, section 5, line 22) "a person shall disclose the information at time of hiring". If a person is going to work, he/she must disclose this information to the employer, so the employer may begin to withhold child support. The person is not going to get hired, if the employee objects. The employer does not want to get involved with people paying child support.

Senator Blaylock stated the employer must ask about child support obligations.

The second amendment failed.

Recommendation and Vote:

Senator Manning made a DO PASS, AS AMENDED motion. The motion passed unanimous.

DISPOSITION OF SENATE BILL 130

Discussion:

Senator Manning stated he has requested a new fiscal note. There is also a Statement of Intent.

DISPOSITION OF SENATE 163

Discussion:

Senator Aklestad stated SB 163 extends the radius, without limitations, at $.45 per mile. Senate Bill 163 has a fiscal note of approximately $700,000. Senator Keating stated, during the questions from the committee time of the hearing, he asked the department if they were paying milage. Senator Keating stated he had just talked to a lady in Geraldine, MT, who is getting services in Great Falls. Senator Keating

person how to do something do.

Senator Aklestad stated he has a notation that SB 218 has been put on the consent calendar.

DISPOSITION OF SENATE BILL 234

Discussion:

Tom Gomez stated Senator Keating asked for amendments. The amendments have not been approved by the requesting legislators.

Senator Keating talked about the tip credit amendment. The tip credit actually takes money away from people. If we affect the tip credit for the employer at the current minimum wage, which is $3.35, the $3.35 minimum wage would always remain. The tip credit would only apply to any increases in minimum wage. It would alleviate the taxes against tips above the $3.35 minimum wage. The credit would be in place for minimum wage increases.

Senator Nathe asked: Suppose I have a restaurant, and I am employing good waitresses. The waitresses are being paid $4.50 per hour. In this case, does the tip credit go from $4.50 on. No. Do these people lose their tips for the amount between $3.35 and $4.50, regarding social security and other benefits. Senator Keating stated the tip credit will be in place at the $3.35 amount. Senator Keating stated the waitress working for $4.40 gets more money, but the employer does not have to pay taxes on tips, beyond the $3.35.

DISPOSITION OF SENATE BILL 129

Discussion:

Senator Manning moved to call back SB 129. Senator Manning stated Mr. Gomez called his attention to a statement of intent, needing bill attachment.

Senator Manning moved to accept the statement of intent. The motion passed unanimously.

Tom Gomez discussed the statement of intent. The department of Revenue is required by section 3 to adopt a uniform child support guide line for use by judges and other officials who have the power to determine child support awards with an estate. The department shall initially adopt and implement the uniform child support guide lines, recommended by the Montana Supreme Court. Thereafter, the department will periodically review the guidelines to determine if they are

appropriate to determine adequate minimum child support amounts. If department determines the guidelines are no longer adequate, they shall amend them after considering the factors set forth in various statutes.

Amendments and Votes:

Senator Manning moved the statement of intent. The motion carried unanimously.

Recommendation and Vote:

Senator Manning moved DO PASS, AS AMENDED. The amendment is the statement of intent. The motion passed unanimously.

DISPOSITION OF SENATE BILL 276

Amendments and Votes:

Senator Blaylock made a DO PASS motion on SB 276.

The fiscal note is for $6,000. The amount is for an extra day. Currently, the money comes out of the General Fund. Jensen stated there are several programs that are paid for out of the Administrative Tax Fund. Senator Aklestad stated the employer has to pay for his own defense, plus the defense of the employee. Currently, the General Fund is picking up the expense, so Montanans do not have to fund the expense.

Senator Keating asked what the Board of Personnel Appeals reviews. Complaints between employee and employer, grievances, and strike action are reviewed. Senator Keating stated he put a repealer on SB 276.

Bob Jensen stated he deals with two board. The Board of Personnel Appeals handles all appeals on collective bargaining matters and hears grievance for Highways and Fish Wild Life and Parks. The other board is the Board of Labor Appeals, which deals with unemployment insurance matters.

Senator Devlin asked is there is a drastic overload of work for the board. Senator Blaylock stated the bill will give people a chance to come in and be heard by the Board of Personnel Appeals before going directly into mediation process. It will give people a chance to come before the Board of Personnel Appeals without a lawyer and be heard.

Bob Jensen stated the Board of Personnel Appeals currently meets approximately every other month. At one time, the board met every month. Senate Bill 276 allows one more due

ROLL CALL

LABOR COMMITTEE

51st LEGISLATIVE SESSION

DATE: Feb 4, 1987

	PRESENT	ABSENT	EXCUSED
SENATOR TOM KEATING	Y		
SENATOR SAM HOFMAN	Y		
SENATOR J.D. LYNCH	Y		
SENATOR GERRY DEVLIN	Y		
SENATOR BOB PIPINICH	Y		
SENATOR DENNIS NATHE	Y		
SENATOR RICHARD MANNING	Y		
SENATOR CHET BLAYLOCK	Y		
SENATOR GARY AKLESTAD	Y		

new Demonstration Program, that the change policy and work policy would apply to those persons who, in the preceding month were eligible for AFDC, who wanted to work, and still retain edibility. The budget analysis people did not see the phrase "in the preceding month", and thought it would expand AFDC for all poor working individuals. The result is the incorrect $11 million fiscal note. The governor's budget office expressed an apology concerning the error caused by new law misunderstanding.

Senator Aklestad asked for a roll call vote. Senators Keating, Hofman, Lynch, Pipinich, Nathe Manning Blaylock voted YES, and Senator ~~Pipinich~~ Devlin and Aklestad voted NO.

DISPOSITION OF SENATE BILL 129

Discussion:

Senator Blaylock asked what was the reason why the committee made a DO NOT PASS RECOMMENDATION on SB 129.

Senator Keating stated he voted against SB 129 after evaluating testimony and subsequent investigation. The bill deals with more education. The state would pay GA for an individual to go back to school, plus school costs. I am opposed to the concept. The state would be paying for the individual to go back to school, an opportunity the individual did not take advantage of when the individual was in school before, and at the same time paying GA benefits.

DISPOSITION OF SENATE BILL 285

Discussion:

Senator Aklestad asked if the sponsor agreed with the amendment taking out the effective date language. Yes. Tom Gomez stated he had pointed out the technical and mechanical defect. The bill could be corrected with new language, but Senator Halligan has not be notified. The amendment reads as follows: On line ten, following the word "number one" insert "other than a corporation issuing bonds or notes pursuant to section 3-C, so the whole sentence beginning on line nine reads: "a public corporation electing compensation plan number 1, other than a corporation issuing bonds or notes pursuant to sub section 3-B is subject to the same provisions as a private employer electing compensation plan number 1." This is necessary because the fiscal note indicates the defect. The bill's purpose is to bar public corporations and to do something else under plan number 1, other than employers electing compensation Plan number 1. The bill is without a clear indication of an exception. The last sentence would say: the public corporation election

Form CS-32
Rev. 1985

STATUS SHEET

____ LEGISLATIVE SESSION

HUMAN SERVICES AND AGING COMMITTEE

BILL NUMBER	ENTERED COM. DATE	DATE CONSIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CONCURRED IN DATE	BE NOT CONCURRED IN DATE	BE CONCURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
SB 15	2-27-89	3-1-89	3-1-89					3-2-89			
SB 26	2-27-89	3-1-89	3-1-89					3-2-89			
SB 63	2-27-89	3-1-89	3-1-89					3-2-89			
SB 70	2-27-89	3-1-89	3-17-89							3-17-89	
SB 74	2-27-89	3-1-89	3-1-89					3-2-89			
SB 101	2-27-89	3-10-89	3-17-89							3-17-89	
SB 124	2-27-89	3-3-89	3-3-89					3-3-89			
SB 129	2-27-89	3-3-89	3-17-89							3-17-89	
SB 130	2-27-89	3-10-89	3-17-89					3-17-89			
SB 143	2-27-89	3-6-89	3-15-89								
SB 146	2-27-89	3-6-89	3-6-89					3-6-89			
SB 147	2-27-89	3-6-89	3-6-89					3-6-89			
SB 163	2-27-89	3-8-89	3-15-89								
SB 181	2-27-89	3-6-89	3-6-89					3-6-89			

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

the federal courts and agencies in interpreting federal handicap laws. Exhibit 9.

Wilbur Rehman stated that he supports this legislation.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Squires asked Mr. Johnson if there will be many to care for in Montana with Aids and Mr. Johnson stated that there would not.

Rep. Good asked Ms. McIntyre about the amendments, the impact of the bill and the public accommodations for these patients.

Rep. Russell asked Ms. McIntyre about the president in this kind of language in other kinds of statutes in other states and Ms. McIntyre stated that the laws of other states have been interpreted in the courts and by agency interpretation to include HIV related conditions.

Rep. Simon asked Ms. McIntyre regarding the amendment, would this broaden this act so that it would also pertain to employment and Ms. McIntyre stated that it would indeed pertain to employment.

Closing by Sponsor: Rep. Hager closes on the bill.

DISPOSITION OF SB 124

Motion: Rep. Brown made a Motion to BE CONCURRED IN.

Amendments, Discussion, and Votes: Rep. McCormick made a Motion to move the amendments. Rep. Simon spoke against the amendments. A vote was taken on the amendments and all voted against the amendments with the exception of Reps. Russell and McCormick. Motion fails.

Recommendation and Vote: A vote was then taken to BE CONCURRED IN. All voted in favor. Motion carries.

HEARING ON SB 129

Presentation and Opening Statement by Sponsor:

Senator Manning state that this bill was an act to ensure that parents fulfill the duty to support their children by providing for a presumptive obligation of support in certain

legal proceedings; to require consideration to Uniform Guidelines to establish a minimum support level; to require paternity child support orders to include a provision covering health insurance in certain cases; to provide for child support collection through automatic income withholding; to grant the Department of Revenue the authority to charge fees in cases in which an obligor's failure or refusal to pay support requires the Department to act and providing an applicability date. Senator Manning also supplied amendments. Exhibit 10.

Testifying Proponents and Who They Represent:

Jim Smith, Human Resource Development Council
Mignon Waterman, Montana Association of Churches
Judith Carlson, Montana Association of Social Workers
Christine Deveny, League of Women Voters
Rep. John Cobb
Brenda Nordlund, Montana Women's Lobby
Marsha Dias

Proponent Testimony:

Jim Smith stated that sends a message that if you make a baby, baby you will be responsible for the financial well being until that child reaches adulthood. No maybe baby, you are responsible.

Mignon Waterman stated that parents, mother and father alike, should assume financial responsibility for their children. It is only through strict child support decrees and enforcement that adequate child support can be ensured. Exhibit 11.

Judith Carlson stated that this includes not only married fathers who are divorced or mothers but also there is the cases of paternity action is taken. Most people may not be aware but when a young woman applies for AFDC she must name the father of her child so no matter what the legal status is, an action will be taken in court requiring that support be made.

Christine Deveny stated that only one third of all single mothers receive the full amount of their court awarded child support. Exhibit 12.

Rep. John Cobb spoke of the amendments and of his support of this bill. Exhibit 13.

Brenda Nordlund presented the committee with the guide for determination of child support obligations which was prepared by the Montana Child Support Advisory Council. Exhibit 14.

Marsha Dias stated her support of this bill.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Brown asked Mr. McCray about the obligor notice and how employers will be informed and Mr. McCray said that booklets will be sent out to every employer in the state.

Rep. Blotkamp asked Mr. McCray about out of state fathers and the acquisition of health insurance .

Rep. Whalen asked Ms. Nordlund about the number of divorces and the number of children and Ms. Nordlund stated that if one out of four parents are self employed and the number of children that are involved in divorces in 1988 then approximately 3/4 of the children who affected by divorce will benefit by this bill because their parents are employed rather than self employed.

Rep. Squires asked Mr. Smith about the amendments.

Rep. Boharski asked Mr. McCray about withholding sanctions and Mr. McCray stated that the originals language came from was an add in during the last session. If for some reason the attorneys who drafted the papers, they did not want the process to stop.

Rep. Simon asked Mr. McCray about the acceptance of an application and how there might be a time frame and how the Department would need to adopt immediate withholding and put money into a trust account. Mr. McCray stated that the provision originated from the Minnesota statutes. The reason is for timeliness. Get the support obligation being paid as soon as possible as soon as the order is entered. It requires the clerk of courts to provide copies of the decree. With that the custodial parent submits the application. Meanwhile the money for the child is coming in automatically.

Closing by Sponsor: Senator Manning closes on the bill.

HEARING ON HB 741

Presentation and Opening Statement by Sponsor:

Rep. Harper stated that this bill was an act entitled: "The Montana hospital cost containment commission act; creating a

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 3/3/89

NAME	PRESENT	ABSENT	EXCUSED
Stella Jean Hansen	✓		
Bill Strizich	✓		
Robert Blotkamp	✓		
Jan Brown	✓		
Lloyd McCormick	✓		
Angela Russell	✓		
Carolyn Squires	✓		
Jessica Stickney	✓		
Timothy Whalen	✓		
William Boharski	✓		
Susan Good	✓		
Budd Gould	✓		
Roger Knapp	✓		
Thomas Lee	✓		
Thomas Nelson	✓		
Bruce Simon	✓		

Manning

Amendments to Senate Bill No. 129
Third Reading Copy

For the Committee on

Prepared by Greg Petesch
February 21, 1989

1. Page 27, line 4.
Following: line 3
Insert: "NEW SECTION. **Section 18. Coordination.** If [this act] and SB 70 are both passed and approved, the amendment to 40-4-204, MCA in SB 70 is void."
Renumber: subsequent sections

EXHIBIT 10
DATE 3-3-89
HB 129

Montana Association of Churches

MONTANA RELIGIOUS LEGISLATIVE COALITION • P.O. Box 745 • Helena, MT 59624

March 3, 1989

CHAIRWOMAN HANSEN AND THE HOUSE HUMAN SERVICES COMMITTEE:

'ORKING TOGETHER:

American Baptist Churches of the Northwest

Christian Churches of Montana (Disciples of Christ)

Episcopal Church Diocese of Montana

Evangelical Lutheran Church in America Montana Synod

yterian Church (U. S. A.) Glacier Presbytery

sbyterian Church (U. S. A.) Yellowstone Presbytery

man Catholic Diocese f Great Falls - Billings

man Catholic Diocese of Helena

United Church of Christ W.-N. Wyo. Cont.

ed Methodist Church wstone Conference

I am Mignon Waterman of Helena and I represent the Montana Association of Churches.

We support the concept embodied in SB129 that parents, mother and father alike, should assume financial responsibility for their children. It is only through strict child support decrees and enforcement that adequate child support can be ensured.

Once again, we believe recommendations like this will help reduce public assistance costs in Montana while not adversely hurting Montana's low income individuals.

We support the concept of SB129.

EXHIBIT 11
DATE 3-3-89
HB 129

Senate Bill 129
House Human Services Committee
March 3, 1989
LWVM Contact: Chris Deveny
442-2617

Madam Chair, members of the committee, my name is Christine Deveny, here today representing the League of Women Voters of Montana, and here to support Senate Bill 129.

In keeping with its historic involvement with the issue of child welfare, the National League of Women Voters recently completed an extensive study of the unmet needs of our nation. The study draws attention to the fact that only one-third of all single mothers receive the full amount of their court-awarded child support. In many cases that child support payment could be the major financial resource that keeps households headed by single parents from needing AFDC payments to meet basic living needs. Those households with limited financial resources are the ones who most need dependable, regular child support payments to enable them to be self-sufficient without relying on AFDC payments.

The provision of Senate Bill 129 requiring automatic withholding of child support payments is a positive step toward ensuring that non-custodial parents meet their financial responsibilities toward the support of their dependant children. Assurances that adequate child support payments will be made on a regular schedule should reduce the number of households that need AFDC assistance.

The League strongly supports the changes in Section 1 subsection 2 that call for the courts to consider the child's medical needs and day care costs when setting child support payment amounts. The cost of quality child care and medical expenses can be a significant porportion of the overall amount needed to provide for a child, and must be considered when setting child support payments.

The League of Women Voters urges the committee to give a "do pass" recommendation to Senate Bill 129. Thank you.

EXHIBIT 12
DATE 3-3-89

SECTION 1. Section 40-4-204, MCA, is amended to read:

40-4-204. Child support - orders to address health insurance - warning of withholding procedures. (1) In a proceeding for dissolution of marriage, legal separation, maintenance, or child support, the court may order either or both parents owing a duty of support to a child to pay an amount reasonable or necessary for his support without regard to marital misconduct, after considering all relevant factors including:

(a) the financial resources of the child;

(b) the financial resources of the custodial parent;

(c) the standard of living the child would have enjoyed had the marriage not been dissolved;

(d) the physical and emotional condition of the child and his educational needs;

(e) the financial resources and needs of the noncustodial parent; and

(f) the medical or health insurance needs of the child as required under subsection (3) and the financial ability of the parent to provide such insurance; and

(g)~~(f)~~ for the purposes of determining a minimum amount for support, the amount received by children under the AFDC program, as defined in 53-2-702.

(2) If the court does not order a parent owing a duty of support to a child to pay any amount for the child's support, the court shall state the reasons for not ordering child support.

(3) Each district court judgment, decree, or order establishing a final child support obligation under this title and each modification of a final order for child support must include a provision addressing health insurance coverage in the following cases;

(a) If either party has available through an employer or other organization health insurance coverage for the child or children for which the premium is partially or entirely paid by the employer or organization, the judgment, decree, or order may contain a provision requiring that coverage for the child or

EXHIBIT 18
DATE 3-3-89
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children be continued or obtained.

(b) In the event that health insurance required in a child support judgment, decree, or order becomes unavailable to the party who is to provide it through loss or change of employment or otherwise, that party must, in the absence of an agreement to the contrary, obtain comparable insurance or request that the court modify the requirement.

(c) All temporary child support orders must contain a provision requiring the party who has health insurance in effect for the child or children of the parties to continue the insurance coverage pending final disposition of the case.

(d) The parties may by written agreement provide for the health care coverage required by this section, subject to the approval of the court.

(e) Unless otherwise provided in the decree, the health care coverage required by this section is in addition to and not in substitution, in whole or in part, for the child support obligation.

(f) If the department of revenue is enforcing a support order for a child pursuant to Title IV-D of the Social Security Act, upon notice by the department, the non-custodial parent shall obtain and maintain health insurance coverage as provided in this subsection. Such insurance must be provided even though it may reduce the amount of the child support obligation determinable under this section, or have the effect of reducing the non-custodial parent's ability to pay the child support as ordered. Unless the noncustodial parent is already required to provide insurance coverage by court order, this insurance is in addition to:

(i) Any order requiring a parent to maintain insurance;

(ii) Any agreement that the other parent will maintain insurance; or

(iii) Any failure of the decree, order or modification to require insurance coverage.

The non-custodial parent shall provide to the department the name of the insurance carrier, the policy identification

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names(s) and number(s), the name(s) of the person(s) covered, and any other pertinent information regarding coverage.

(4)---Each-district-court-judgment-or-order-establishing-a child-support-obligation-under--this-title;--whether-temporary-or final;--and--each--modification--of--an--existing-order-for-child support-entered-after-October-1;--1985;--must--include--a-warning statement-that--if-the--obligor-is--delinquent-in--the-payment-of support;--the---obligor's--income---may--be---subject--to--income withholding-procedures--under-Title--40;-chapter--5;-part-3-or-4. Failure-to--include-a--warning-statement--in-a--judgment-or-order does-not-preclude-the-use-of-withholding-procedures.

(4) Each district court judgment or order establishing either a child support obligation or an insurance obligation as provided under this section, whether temporary or final and each modification of an existing order for child support or insurance coverage must include:

(a) in the case of a child support order or modification entered after October, 1, 1985, a warning statement that if the obligor is delinquent in the payment of support, the obligor's income may be subject to income withholding procedures under Title 40, chapter 5, part 3 or 4;

(b) in the case of an order for insurance or modification of an order for insurance entered after October 1, 1989, a statement that if the child is or becomes a recipient of public assistance, and the insurance coverage is being enforced by the department of revenue, then failure to maintain insurance coverage or failure to provide information to the department regarding the insurance coverage may result in the imposition of sanctions under 40-5-208.

(c) The failure to include either statement in a judgment or order does not preclude the use of withholding procedures or sanctions.

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SECTION 2. Section 40-5-208, MCA, is amended to read:

40-5-208. Medical support obligation enforcement. (1)(a) In all proceedings initiated pursuant to this part, the department must require parents obligated to pay child support to secure and maintain health insurance coverage for each dependent child, ~~at a cost not to exceed 5% of net income~~, whenever such health insurance is available through their employment, or other group health insurance plan. However, if a court of competent jurisdiction has entered an order establishing a current support obligation and has ordered the obligated parent to secure and maintain health insurance coverage for each dependent child, the department shall enforce the obligation as ordered by the court.

(b) The obligor shall provide to the department the name of the insurance carrier, the policy identification names(s) and number(s), the names(s) of the person(s) covered, and any other pertinent information regarding coverage.

(c) Such insurance must be provided even though it may reduce the amount of the child support obligation which may be established under this part.

(d) Every order for child support established under this part shall contain a statement to the effect that failure to obtain and maintain health insurance coverage, or failure to provide information to the department regarding the insurance coverage may result in the imposition of sanctions under this section. Failure to include the warning does not preclude the imposition of sanctions.

(2) If the department determines: ~~that an obligated parent has failed to maintain health insurance coverage required by the order of a court of competent jurisdiction or an administrative agency empowered to enter such order~~;

(a) that an obligor has failed to obtain or maintain health insurance coverage required under 40-4-204;

(b) that an obligor has failed to obtain or maintain health insurance coverage under this section; or

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(c) that an obligor has failed to provide information required under either this section or 40-4-204, the department it may issue a notice commanding the parent to appear at a hearing held by the department and show cause why a sum of not more than $100 should not be assessed for each month health insurance coverage is not secured or maintained; or for each month information is not provided.

(3) If the department finds, after hearing or failure to appear, that health insurance coverage has not been secured or maintained ~~in--accordance-with-the-court-or-administrative-order,~~ or the obligor has failed to provide the information as required, the department may assess against the ~~obligated-parent~~ obligor not more than $100 for each month health insurance coverage has not been secured or maintained~~;~~, or for each month information has not been provided. Such amount may be enforced by any administrative remedy available to the department for the enforcement of child support obligations including warrant for distraint provided for in 40-5-241, and income withholding, provided for at Title 40, chapter 4, part 4.

~~(3)--Whenever-an-obligated-parent-who-has-been-served-with notice-under-this-section-appears-before-the-department-and-shows that-health-insurance-coverage--in-accordance--with-the--court-or administrative-order;~~

~~(a)-has-been-secured-and-maintained-continuously-since-the date-of-the--order;--the--department--shall--dismiss--the-pending action;-or-~~

~~(b)---has-not--been-secured-or-continuously-maintained-but such--coverage--is--presently--in--effect;--the--department-shall suspend-the-pending-action-for-a-period-of-12-months;~~

~~(4)---At-the--end-of-the-suspension-period;-the-department may-schedule-a-hearing;--If-at-this-hearing-the--department-finds that-during-the-suspension-period-health-insurance-coverage;~~

~~(a)----has--been--continuously--maintained;-the-department shall-dismiss-the-pending-action-and--the-obligated--parent-will not-be-assessed-under-this-section;-or~~

~~(b)---has-not-been-continuously-maintained;-the-department~~

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may-enter-a-final-order-requiring-the-obligated-parent-to-pay-the sum--assessed--in--accordance--with--this--section-for-each-month coverage-was-not-maintained.

(4)(5) Any amounts collected pursuant to this section must be returned to the general fund to help offset expenditures for medicaid.

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OF
CHILD SUPPORT OBLIGATIONS

Prepared by

Montana Child Support Advisory Council

October 1, 1985

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I

Introduction

The statutory standards for determining child support obligations in Montana are contained in M.C.A. Sections 40-4-204 and 40-6-116 for dissolution of marriage proceedings and paternity actions. Although these standards offer broad guidance to persons involved in the establishment of child support obligations, the standards do not explain how to apply the standards to specific child support actions. The major purpose of this guide is to produce a uniform and equitable approach to applying the standard that is predictable, reasonable, simple to calculate, and which reflects the duty of both parents to support their children commensurate with their ability.

The economic principles underlying this guide are founded upon a formula developed by the Institute for Court Management of the National Center for State Courts.[1] In concept, the formula is based on economic evidence that the costs of a child can be accurately depicted as a proportion of family income consumption. This proportion remains relatively consistent but does change predictably with changes in the level of household income and with the number and ages of the children. The formula, in turn, converts this data into percentages of net family income which are computed into a child support obligation.

This guideline calculates child support as a share of each parent's income estimated to have been spent on the child if the parents and child were living in an intact household. If one parent has custody, the amount calculated for that parent is presumed to be spent directly on the child. For the non-custodial parent, the calculated amount establishes the level of child support. For cases with split custody, or extensive sharing of physical custody, each parent's share of child support becomes the basis for determining his or her legal child support obligators.

II

Use Of The Guideline

The guideline is designed for proper application to a broad range of cases and therefore is intended only to create a rebuttable presumption of the reasonableness of the child support obligations. As is true with any system, the application of this guide may not produce a child support payment that is fair or adequate in every instance. In applying the guide as a baseline from which to proceed, the parties or the court may make adjustments either upward or downward to reflect a particular inconsistent circumstance. The burden of showing why such deviation from the guide should be made, will be on its proponent. Any departure from the guide should be accompanied by a written statement which gives the reasons for deviation form the guide's direct application.

III

Determination of Child Support Amount

Part 1. Determination of gross income for each obligor parent.

In the determination of child support obligations the explicit policy of this guideline is to make available for the benefit of the child(ren) sufficient funds to provide the standard of living the child would have enjoyed had the marriage not been dissolved. Accordingly, all income, from whatever sources, including business expense account payments for meals and automobiles to the extent that they provide the parent with something he or she would otherwise have to provide, will constitute gross income. Also to be included are such income as pensions, dividends, interest, trust income, proceeds from contracts, and so forth.

AFDC and other welfare benefits being received by an obligor parent are not to be included as income. In those cases where obligor parents are receiving Veterans Administration Disability, Supplemental Security Income, or other private disability benefits, they should be required as part of any court ordered support obligation to apply for those program benefits their children are entitled to receive. Depending on case-by-case circumstances, these benefits may replace in whole or in part any child support obligation.

All income should be annualized and copies of the last two years' tax returns should accompany financial statements as well as current wage stubs. Such annualization and examination of a two year period will provide a normalized pattern of income-producing abilities. Without such examination a temporary period of present unemployment or underemployment may indicate an unwarranted low amount of income available for support.

Part 2. Imputed or attributed income.

A particular problem exists for obligor parents who are voluntarily unemployed or underemployed. It is the policy of this guide that a parent will be excused from making a financial contribution only if he or she is physically or mentally incapacitated.

In cases where the obligor parent is not working or is not working at full earning capacity, the reasons for such a limitation on earnings should be examined. If the reason is a matter of choice, the local job market should be reviewed to determine what a person with the obligor parent's trade skills and capabilities could earn. Those typical earnings can then be imputed to the obligor parent for use in this guide. This approach is most useful when the obligor parent has a relatively stable and recent work history. The approach can also be used when the obligor parent has minimal skills and no work history by ascribing earnings based on a minimum wage for a full work week.

Alternatively, when the obligor parent is remarried to a person who is fully employed, and the obligor parent elects to stay at home as homemaker for the new spouse, a dollar value may be set which shall be considered as that obligor's parent's income. The value for homemaker services should be assessed at no less than the federal minimum wage level for a forty hour week.

Part 3. Income of current spouses.

Stepparents and other adult household members are not generally responsible for the support of children of prior marriages or relationships. Consequently, these guidelines do not take into account income from other adults who may reside with either of the separated obligor parents. However, for subsequent modifications of initial support awards, due consideration may be given the effect of shared expenses. That is, a current spouse's income might be counted as reducing the obligor parent's living expenses and might, therefore, increase on a case-by-case basis the amount of income available for child support.

Part 4. Assets as income.

Actual or imputed income may not be by itself an adequate measure of the obligor parent's ability to pay child support. The obligor parent, for example, may have savings, life insurance, vehicles, real estate, (other than permanent home), collections, and other assets in amounts unrelated to income. Unless account is taken of these holdings, preferential treatment will be given the obligor parent and the child(ren) will correspondingly be denied a share. This is not to imply that there must be a forced sale of these assets but that their dollar value be counted in determining funds available for support. Consequently, an amount equal to two (2)

[1]For a detailed explanation of the economic evidence see Robert G. Williams, *Development of Guidelines for Establishing and*

percent of the total value of the obligor parent's assets is to be added each month to that parent's total monthly income. The obligor parent can later decide whether, in fact, to liquidate assets or to make other expenditure adjustments to compensate.

The assessment of assets should exclude from consideration such non-income and non-depreciable producing assets of "reasonable" value such as a permanent home, farm land, furnishings, and one automobile. Also excluded should be income producing assets such as real property in the form of a farm or business, vehicles, tools, or instruments used to produce a primary source of income.

Part 5. Determining net income available for support.

The implementation of the policy of keeping primary focus on the needs of the child(ren) requires that from each obligor parent's income only a minimum of exclusions be allowed. Therefore, from gross income only the following are subtracted as deductions: federal and state income taxes; FICA; union dues, retirement contributions, uniforms, etc., which are required as a condition of employment and are not reimbursed by the employer; legitimate business expenses; and health insurance if the benefits are maintained for the obligor parent's dependents, including the child(ren) of the action at hand.

Child support payments owed for children of the obligor parent not of the union between the parents in this case which are actually being paid are being withheld from the obligor parent's wages by involuntary wage assignment or other similar legal process, may be excluded from gross income to the extent that such withholding actually occurs.

Deductions made by an employer from the obligor parent's wages for credit unions or merely for the convenience of the obligor parent will not be recognized.

Where income has been imputed to a stay-at-home homemaker, the permissible deductions will not be permitted since none are being made.

Part 6. Application of the formula.

For ease of use, the formula is manifested by a table which has a series of percentages differing by income level, number of children, and age of children. To determine child support from this table, the net income of the two parents is added together. This sum is then compared to the income level column, and the line showing the number and age of the children to arrive at a percentage figure. This percentage is then applied separately to each parent's income to establish in dollar amounts the support obligation for each parent.

For example, father and mother are divorced. Neither has remarried. Father nets $7,849 annually; mother nets $6,600. The combined income is $14,448. Their only child, age 2, lives with mother. Referring to the table, child support is calculated as 19.7%, a support obligation of $128.85 results for father and $108.35 for mother. Since mother is the custodial parent, the $108.35 is retained by her. It represents the amount that is presumably spent directly on the child in the custodial household. The obligation of $128.85 per month incurred by the father is payable as child support to the mother.

Part 7. Custody arrangements.

Under these guidelines a total child support obligation is calculated separately for each parent without initial regard to custody. Subsequent to such determination, in sole custody arrangements the custodial parent for all the children will retain his or her share of the support obligation and the non-custodial parent pays his or her share to the custodial parent. If there is split custody of the children, each parent shall retain the share of the total child support owned to the child in his or her custody and pay the difference, if any, to the other parent for children in the other parent's custody.

When the obligor parents share joint physical custody (both parents have custody of the children more than 30% of a 365 day period), to avoid unnecessary transfers of funds, the "pay over" of each parent for the year should be determined by multiplying the monthly support obligation times the number of months the parent has custody. If one parent's yearly obligation is greater than that owed by the other, the excess amount shall be divided by 12 and paid monthly over the year.

For example, Parent A's support obligation is $300 per month and Parent B's obligation is $100. Parent A has custody for 4 months of the year and Parent B has the child for the remainder. Thus, over a year, Parent A would pay to Parent B $300 times 8 months or $2,400; and Parent B would pay Parent A $100 times 4 months or $400. Accordingly, Parent A owes $2,000 per year more than Parent B owes to Parent A. To meet this obligation, Parent A should pay to Parent B $166.66 per month ($2,000 divided by 12 months).

For cases involving joint physical custody, the table presumes that direct expenses are incurred in approximate proportion to the duration of physical custody. This presumption should be reviewed carefully in the application of the table since some expenses may not be borne proportionately. For example, the parent having custody of the child during the major part of a school term may incur additional expenses for clothing, books, recreation, and so forth. Adjustments may be made in the amounts calculated from the table to reflect any such disparity.

Part 8. Age adjustments.

Studies of household expenditure patterns have found that spending levels for children are related to their age. The table makes provisions for only two age brackets: 0-11 and 12-17. This is based on a general consensus that expenditures increase markedly for children in the twelve to seventeen range. The table thus has an advantage of concentrating higher child support awards during the teen years when the need for augmentation or "teenage premium" is greatest.

When the ages of the children require use of more than one line from the table, locate the per-child percentage from the correct age grouping and then divide the percentage by the number of children to get the percentage of the obligor parent's income allocated to that child.

For example, the combined net income of the parents of a 7 year old child and a 14 year old is $20,000. The percentage for two children age 7 is 27.1% which is divided by two to arrive at a figure of 13.55% of net income for the 7 year old child. Likewise, the percentage for two 14 year olds is 33.5% which yields an obligation of 16.75% of net income for the other child thus the total obligation would be 30.3% of the parent's net income.

Part 9. Low income parents.

Regardless of the presumptive level derived from the table, an obligor should not be held to his or her full application of the table percentage if to do so would reduce the parent's standard of living below the poverty line. Where this will occur, child support should be established on a case-by-case basis. Except in unusual adverse circumstances, a minimum order of no less than $50.00 should be set in all cases to establish the principle of payment and to lay the foundation for increased orders when the parent's income increases.

Part 10. Health insurance.

Under state law, every decree, judgment or order establishing a child support obligation and every modification of an existing order must include a provision requiring the parents to obtain medical insurance on the child in addition to the child support obliga-

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tion. If health insurance on behalf of the child is carried by a parent, the parent's net cost of the child's share of the premium is allowed as a deduction from gross income.

Insurance deductibles, medical, dental, and optical expenses which are not covered by insurance should be pro-rated between the parents based on the net income of each.

Part 11. Extraordinary medical expenses.

Any extraordinary medical expenses which are likely to be reoccuring during the minority of the child should be pro-rated between the parents and added to the basic child support obligation. Extraordinary medical expenses include physical therapy, special education, mental disorders, and any other uninsured chronic health problems which are likely to occur on a periodic basis.

The amount to be paid each month for extraordinary medical expenses may be determined by adding a monthly average of past costs if future costs are expected to be comparable, or by adding extraordinary medical expenses to the child support obligation on a monthly as-incurred basis with the custodial parent billing the non-custodial parent accordingly.

Part 12. Child care expenses.

Work or training related child care expenses are a mutual responsibility of both parents and are to be apportioned between them based on their respective levels of net income. Because child care expenses may be of indeterminate duration, such expenses are to be considered as a supplement to the child support established by the table and are to be paid only during those times when child care expenses are actually being incurred. For this reason, orders establishing the dollar contribution of a parent toward child care costs should set this amount as a separate item in the order.

Determination of a monthly child care obligation for the purpose of this guide should be heard either upon annualized, average costs of receipted expenses, or, when the history of such expenses are not available, upon estimates based on the average necessary monthly costs of such services.

Part 13. Other dependents.

As regards the treatment of other dependents, this guide uses a "first mortgage" approach in which children of prior marriages or relationships are given priority over subsequent children. This policy is based on reason and economic theory. Both suggest that the problems of inadequate support for children of multiple relationships would be alleviated if parents were discouraged from having more children unless they were capable of contributing adequately to the needs of all their offspring. Consequently, if support is sought for children of a subsequent relationship when there is a preexisting order for a child born from a previous relationship, priority would be given to the earlier children born by subtracting the amount actually paid from the parent's net income base. (See Part 5). This diminishes the amount of parental resources available to support children from the subsequent relationship.

Likewise, when this guide is being used to reevaluate a prior child support order for modification, the position is taken that the parent's prior child support obligations have absolute precedence over the needs of a new family. A parent's plea that his or her new responsibilities are a change in circumstances justifying a reduction in a prior child support award will not serve as a basis for a reduction of support. Creation of the new family is a voluntary act and that parent should decide whether he or she can meet existing support responsibilities and provide for new ones before taking that step.

Part 14. Need for updating.

Even if a support order accurately reflects the needs of the child and the resources of a parent when it is initially set, changes in circumstances that inevitably occur with the passage of time can seriously erode its value and reduce the equity for the parties. As a result, these guidelines recommend that all support orders and support agreements contain a provision for biannual review on instance of either party of the support obligation. The review should be made by reapplication of this guideline. Doing so will take into account changes in all factors considered by the guidelines rather than focusing on only one or two variables.

SUPPORT GUIDELINES TABLE

	$0 – $4,499	$4,500 – $8,499	$ 8,500 – $12,249	$12,250 – $16,499	$16,500 – $19,999	$20,000 – $27,999	$28,000 – $39,499	$39,500 +
One Child								
0-11	21.8	21.8	21.4	19.7	18.0	17.4	16.3	13.6
12-17	27.0	27.0	26.5	24.4	22.3	21.5	20.2	16.8
Two Children								
0-11	33.8	33.8	33.2	30.7	28.0	27.1	25.3	21.1
12-17	41.8	41.8	41.0	38.0	34.6	33.5	31.3	26.1
Three Children								
0-11	42.4	42.4	41.5	38.4	35.1	33.8	31.7	26.5
12-17	52.4	52.4	51.3	47.5	43.4	41.8	39.2	32.8
Four Children								
0-11	47.7	47.7	46.8	43.4	39.6	38.2	35.7	29.8
12-17	59.0	59.0	57.9	53.6	48.9	47.2	44.1	36.9
Five Children								
0-11	52.1	52.1	51.1	47.3	43.2	41.6	38.9	32.6
12-17	64.4	64.4	63.1	58.4	53.4	51.4	48.1	40.3
Six Children								
0-11	55.7	55.7	54.6	50.5	46.2	44.5	41.6	34.9
12-17	68.9	68.9	67.5	62.4	57.1	55.0	51.4	43.1

For children in different age categories, pro-rate based or total number of children. Example: for one child age 7, one age 14, annual income of $18,000; use percentages for two children, divided by two — (28.0 / 2) + (34.6 / 2) = 31.3.

WORK SHEET #1
FOR
DETERMINATION OF CHILD SUPPORT

	Mother	Combined	Father
1. Gross Income (annualized)			
a. earnings			
b. imputed income			
c. percent of asset value			
d. other			
e. TOTAL			
2. Deductions (annualized)			
a. taxes			
b. FICA			
c. union dues			
d. mandatory retirement			
e. mandatory health insurance			
f. child support preexisting			
g. medical insurance paid in behalf of child(ren)			
h. other			
I. TOTAL			
3. Net Available Resources (line 1e minus line 2i)			
4. Combined Total Net Income			
5. Percentage from Table		%	
6. Each Parent's Obligation (line 3 x line 5)			
7. Monthly Support Obligation (line 6 divided by 12 months)			

WORK SHEET #2
FOR
CHILD CARE COSTS

	Mother	Combined	Father
1. Costs of Child Care (annualized)			
2. Net Available Income			
3. Combined Net Income			
4. Pro-rata share (line 2 divided by line 3)	%		%
5. Parent's Share of Costs (line 4 times line 1)			
6. Monthly Child Support Obligation (line 7, Worksheet #1)			
7. Child Support With Child Care Costs (line 5 plus line 6)			

EXHIBIT 14
DATE 3-3-89
HB 129

and Rehabilitative Services. Rep. Squires made a Motion to move the three new amendments which were verbally discussed by Julia Robinson. A vote was taken and all voted in favor with the exception of Rep. McCormick. Motion carries. Rep. Blotkamp made a Motion to move the Blotkamp amendments which were proposed by the Montana Low Income Coalition. Rep. Good made a Motion to eliminate the #4 amendment of the Blotkamp amendments. A vote was taken on the elimination of the #4 amendment and all voted in favor. Motion carries. A roll call vote was then taken on the Blotkamp amendment minus the #4 amendment and all voted in favor with the exception of Reps. Boharski, Good, Gould, Knapp, Lee, Nelson, Simon, Strizich. Motion fails. Rep. Blotkamp withdrew his motion. Rep. Good made a Motion to move the Good amendment. A vote was taken and all voted in favor with the exception of Reps. Lee, Boharski, Simon, Gould and Knapp. Motion carries. Rep. Blotkamp made a Motion to reinsert the provision of gasoline money in the form of an amendment which occurs on page 7, section 4, line 19 and 20. Rep. Blotkamp then withdrew his amendment.

Recommendation and Vote: Rep. Boharski made a Motion TO BE CONCURRED IN AS AMENDED. A roll call vote was taken and all voted in favor with the exception of Reps. Boharski, Gould, Lee, Simon and Whalen. Motion carries.

DISPOSITION OF SB 128

The Hearing on SB 128 was held on March 10, 1989.

Motion: Rep. Boharski made a Motion TO BE CONCURRED IN.

Amendments, Discussion, and Votes: Rep. Lee made a Motion to move the amendments which were proposed by the Department of Social and Rehabilitative Services. Rep. Squires made a Motion for an amendment on the insertion of the new section. A vote was taken and all voted in favor. Motion carries. Rep. Boharski made a Motion to move the Boharski amendment plus the insertion of a new Section 6. A vote was taken and all voted in favor with the exception of Reps. Squires, Russell, Hansen. Motion carries.

Recommendation and Vote: Rep. Boharski made a Motion TO BE CONCURRED IN AS AMENDED. A roll call vote was taken and all voted in favor. Motion carries.

DISPOSITION OF SB 129

The Hearing on SB 129 was held on March 3, 1989.

Motion: Rep. Boharski made a Motion TO BE CONCURRED IN.

Amendments, Discussion, and Votes: Rep. Good made a Motion to

move the first set of Manning amendments. A vote was taken and all voted in favor. Motion carries. Rep. Squires then made a motion to move the second set of Manning amendments. A vote was taken and all voted in favor. Motion carries. Rep. Boharski made a Motion to move the Cobb amendments. A vote was taken and all voted in favor. Motion carries.

Recommendation and Vote: Rep. Squires made a Motion TO BE CONCURRED IN AS AMENDED. A vote was taken and all voted in favor. Motion carries.

DISPOSITION OF SB 130

Motion: Rep. Squires made a Motion TO BE CONCURRED IN.

Recommendation and Vote: A vote was taken TO BE CONCURRED IN and all voted in favor. Motion carries.

DISPOSITION OF SB 134

Motion: Rep. Good made a Motion TO BE CONCURRED IN.

Amendments, Discussion, and Votes: Rep. Lee made a Motion to move the amendments. A vote was taken and all voted in favor. Motion carries.

Recommendation and Vote: Rep. Lee made a Motion TO BE CONCURRED IN AS AMENDED. A vote was taken and all voted in favor. Motion carries.

HEARING ON HJR 33 and 34

Presentation and Opening Statement by Sponsor:

Rep. Simon presented the bills for Rep. Stickney. These bills are an act to urge all Montana physicians to participate in the Mont-Share Program and to provide care to Montana's elderly and an act urging the Montana congressional delegation to seek adequate funding and to correct inequities contained in the medicare part B program.

Testifying Proponents and Who They Represent:

All Committee members of the Human Services and Aging Committee

Proponent Testimony:

None

Testifying Opponents and Who They Represent:

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 2-17-89

NAME	PRESENT	ABSENT	EXCUSED
Stella Jean Hansen	✓		
Bill Strizich	✓		
Robert Blotkamp	✓		
Jan Brown	✓		
Lloyd McCormick	✓		
Angela Russell	✓		
Carolyn Squires	✓		
Jessica Stickney	✓		
Timothy Whalen	✓		
William Boharski	✓		
Susan Good	✓		
Budd Gould	✓		
Roger Knapp	✓		
Thomas Lee	✓		
Thomas Nelson	✓		
Bruce Simon	✓		

Part

STANDING COMMITTEE REPORT

March 22, 1989

Mr. Speaker: We, the committee on Human Services and Aging report that SENATE BILL 129 (third reading copy -- blue), with statement of intent attached, be concurred in as amended .

Signed: _____
Stella Jean Hansen, Chairman

And, that such amendments read:

1. Title, line 17.
Following: "40-5-203,"
Insert: "40-5-208,"

2. Title, line 18.
Following: "40-5-417,"
Insert: "40-5-422,"

3. Page 7.
Following: line 8
Insert: "(6) If the department of revenue is providing or later provides support enforcement services under Title IV-D of the Social Security Act, each district court order or modification of an order must contain a statement providing that the noncustodial parent, without further order of the court, is required to obtain and maintain health insurance coverage as provided in 40-5-208. Failure to include a warning statement in the judgment or order does not preclude the imposition of sanctions under 40-5-208."

4. Page 12.
Following: line 14
Insert: "(9) If the department of revenue is providing or later provides support enforcement services under Title IV-D of the Social Security Act, each district court order or modification of an order must contain a statement providing that the noncustodial parent, without further order of the court, is required to obtain and maintain health insurance coverage as provided in 40-5-208. Failure to include a warning statement in the judgment or order does not preclude the imposition of sanctions under 40-5-208."

5. Page 14, lines 11 through 15.

Strike: line 11 through "hiring." on line 15
Insert: "After a person is hired for employment, the payor shall submit to the person a written form inquiring whether the person owes child support that is required by law to be withheld from income according the terms of an order, if any, concerning child support. The person shall immediately complete, sign, and date the form and return it to the payor. The completed form must be retained by the payor for at least 3 years after the date of hiring or at least 1 year after the date that employment is terminated, whichever is longer."

6. Page 15.
Following: line 5
Insert: "(4) A payor may not inquire as to whether a prospective employee owes child support that is required by law to be withheld from income according to the terms of an order, if any, concerning child support, until employment has been offered and accepted."

7. Page 26.
Following: line 24
Insert: "Section 17. Section 40-5-208, MCA, is amended to read:

"40-5-208. Medical support obligation -- enforcement -- sanctions. (1)(a) In all proceedings initiated pursuant to this part to establish a child support order, whether final or temporary, and in each modification of an existing order, the department shall require ~~parents obligated to pay child support~~ the obligor to ~~secure~~ obtain and maintain health insurance coverage for each ~~dependent~~ child~~, at a cost not to exceed 5% of net income, whenever such~~ if health insurance coverage is available through ~~their~~ the obligor's employment or other group health insurance plan. The order or modification of an order must include a statement that the insurance must be obtained and maintained whenever the department is providing support enforcement services and that the failure to do so may result in the imposition of sanctions under this section.
~~However, if a court of competent jurisdiction has entered an order establishing a current support obligation and has ordered the obligated parent to secure and maintain health insurance coverage for each dependent child, the department shall enforce the obligation as ordered by the court.~~

(b) If the support order or modification of an order does not include a provision requiring the obligor to provide health insurance coverage for a child, upon notice to the obligor that the child is receiving support enforcement services under Title IV-D of the Social Security Act, the obligor shall obtain and maintain health insurance coverage as provided for in subsection (1)(a). This insurance is in addition to:

(i) an order requiring the obligee to maintain health insurance coverage;

(ii) an agreement that the obligee will maintain health insurance coverage; or

(iii) a failure or omission of the court order or modification of an order to require health insurance coverage.

(2)(a) If the department is providing child support enforcement services and the obligor is required by an existing district court order or an administrative order under this section to provide health insurance coverage for a child, the department shall also enforce the health insurance obligation.

(b) To ensure that health insurance coverage is available for the child, the obligor, upon written request by the department, shall provide the name of the insurance carrier, the policy identification name and number, the names of the persons covered, and any other pertinent information regarding coverage.

~~(2)~~ (3)(a) ~~If the department determines that an obligated parent has failed to maintain health insurance coverage required by the order of a court of competent jurisdiction or an administrative agency empowered to enter such order, it~~ The department may issue a notice commanding the ~~parent~~ obligor to appear at a hearing held by the department and show cause why a sum of not more than $100 should not be assessed for each month health insurance coverage is not secured or maintained if the department determines an obligor has failed to:

(i) obtain or maintain health insurance coverage as required under this section; or

(ii) provide information required under this section.

(b) If the department finds, after hearing or failure to appear, that health insurance coverage has not been ~~secured~~ obtained or maintained ~~in accordance with the court or administrative order,~~ or that the obligor has failed to provide the information required, the department may assess against the obligated parent not more than $100 for each month health insurance coverage has not been ~~secured~~ obtained or maintained or for each month information has not been provided. Such amounts may be enforced by any administrative remedy available to the department for the enforcement of child support obligations, including warrant for distraint provided for in 40-5-241 and income withholding provided for in Title 40, chapter 5, part 4.

~~(3) Whenever an obligated parent who has been served with notice under this section appears before the department and shows that health insurance coverage in accordance with the court or administrative order:~~

~~(a) has been secured and maintained continuously since the date of the order, the department shall dismiss the pending action; or~~

~~(b) has not been secured or continuously maintained but such coverage is presently in effect, the department shall~~

~~suspend the pending action for a period of 12 months.~~

~~(4) At the end of the suspension period, the department may schedule a hearing. If at this hearing the department finds that during the suspension period health insurance coverage:~~

~~(a) has been continuously maintained, the department shall dismiss the pending action and the obligated parent will not be assessed under this section; or~~

~~(b) has not been continuously maintained, the department may enter a final order requiring the obligated parent to pay the sum assessed in accordance with this section for each month coverage was not maintained.~~

(4) The health insurance coverage must be provided under this section even though it may reduce the amount of the child support obligation or reduce the obligor's ability to pay child support as required.

(5) Any amounts collected pursuant to this section must be returned to the general fund to help offset expenditures for medicaid."

"Section 18. Section 40-5-422, MCA, is amended to read:

"40-5-422. Obligor rights protected -- penalties. (1) ~~No~~ An employer may not discharge, discipline, or refuse to hire an obligor :

(a) because the person has a child support obligation; or

(b) because of the institution of income withholding on the obligor's income or the initiation of proceedings under this part.

(2) Any person who violates this section may be fined not more than $500 and not less than $150 and may be required to make full restitution to the aggrieved obligor, including reinstatement and backpay.""

Renumber: subsequent section

8. Page 27.
Following: line 3
Insert: "NEW SECTION. Section 20. Coordination. If [this act] and Senate Bill No. 70 are both passed and approved, then the amendment to 40-4-204, MCA, in Senate Bill No. 70 is void."
Renumber: subsequent sections

Manning

Manning

Amendments to Senate Bill No. 129
Third Reading Copy

For the Committee on

Prepared by Greg Petesch
February 21, 1989

1. Page 27, line 4.
Following: line 3
Insert: "NEW SECTION. **Section 18. Coordination.** If [this act] and SB 70 are both passed and approved, the amendment to 40-4-204, MCA in SB 70 is void."
Renumber: subsequent sections

Amendments to Senate Bill No. 129
Third Reading Copy

Requested by Senator Richard Manning
For the House Human Services and Aging Committee

Prepared by Tom Gomez, Staff Researcher
March 3, 1989

1. Page 14, lines 10 through 15.
Strike: subsection (1) in its entirety
Insert: "(1) After a person is hired for employment, the payor shall submit a written form to the person inquiring whether the person owes child support that is required by law to be withheld from income according the terms of an order, if any, concerning child support. The person shall immediately complete, sign, and date the form and return the same to the payor. The completed form must be retained by the payor for 3 years after the date of hiring or 1 year after the date that employment is terminated, whichever is greater."

2. Page 15, line 6.
Following: line 5
Insert: "(4) A payor may not inquire as to whether a prospective employee owes child support that is required by law to be withheld from income according to the terms of an order, if any, concerning child support, until employment has been offered and accepted."